

**LODI CITY COUNCIL
REGULAR CITY COUNCIL MEETING
CARNEGIE FORUM, 305 WEST PINE STREET
WEDNESDAY, APRIL 19, 2006**

C-1 CALL TO ORDER / ROLL CALL

The City Council Closed Session meeting of April 19, 2006, was called to order by Mayor Hitchcock at 5:35 p.m.

Present: Council Members – Beckman, Hansen, Johnson, Mounce, and Mayor Hitchcock

Absent: Council Members – None

Also Present: City Manager King, City Attorney Schwabauer, and City Clerk Blackston

C-2 ANNOUNCEMENT OF CLOSED SESSION

- a) Pursuant to Government Code §54956.9(c); conference with legal counsel – anticipated litigation/initiation of litigation – regarding County of San Joaquin EMS Order to change 911 Fire Dispatch Providers; one potential case
- b) Actual litigation: Government Code §54956.9(a); one case; *People of the State of California; and the City of Lodi, California v. M & P Investments, et al.*; United States District Court, Eastern District of California, Case No. CIV-S-00-2441 FCD JFM
- c) Conference with Blair King, City Manager, and Jim Krueger, Deputy City Manager (Labor Negotiators), regarding Lodi Professional Firefighters, Police Management, and Association of Lodi City Employees regarding General Services pursuant to Government Code Section §54957.6
- d) Conference with legal counsel – anticipated litigation – significant exposure to litigation pursuant to subdivision (b) of Section 54956.9; one case; pursuant to Government Code §54956.9(b)(3)(A) facts, due to not being known to potential plaintiffs, shall not be disclosed

C-3 ADJOURN TO CLOSED SESSION

At 5:35 p.m., Mayor Hitchcock adjourned the meeting to a Closed Session to discuss the above matters.

The Closed Session adjourned at 6:55 p.m.

C-4 RETURN TO OPEN SESSION / DISCLOSURE OF ACTION

At 7:02 p.m., Mayor Hitchcock reconvened the City Council meeting, and City Attorney Schwabauer disclosed that no reportable action was taken in closed session.

A. CALL TO ORDER / ROLL CALL

The Regular City Council meeting of April 19, 2006, was called to order by Mayor Hitchcock at 7:02 p.m.

Present: Council Members – Beckman, Hansen, Johnson, Mounce, and Mayor Hitchcock

Absent: Council Members – None

Also Present: City Manager King, City Attorney Schwabauer, and City Clerk Blackston

B. INVOCATION

The invocation was given by Pastor Bill Cummins, Bear Creek Community Church.

C. PLEDGE OF ALLEGIANCE

The Pledge of Allegiance was led by Mayor Hitchcock.

D. AWARDS / PROCLAMATIONS / PRESENTATIONS

D-1 Awards – None

D-2 (a) Police Chief Adams reported that the Police Partners program has operated for the past 12 years. In 2005, the Partners donated 26,850 hours to the Police Department, which equates to an estimated fiscal impact of \$484,000. There are 96 Partner volunteers. The Police Chaplaincy program formed in 1994, and there are now five clergy members participating. There are four reserve officers in the Lodi Police Reserve program. The Lodi Police Cadet Program is designed for volunteers ages 16 to 24 years, and 18 cadets are enrolled in the program today. The Regional Occupation Program Academy has 56 high school juniors and seniors participating. In addition to the 125 front line Lodi Police volunteers, there are 46 community volunteers. Jeanie Biskup, Special Services Manager, pointed out that Partners work in many areas within the Police Department that generate revenue for the City such as parking enforcement, tow releases, and the alarm program. In 2005, the revenue from these programs deposited in the City General Fund amounted to \$77,886. Mayor Hitchcock presented a proclamation to Police Chief Adams proclaiming the week of April 23 – 29, 2006, as “National Volunteers Week” in the City of Lodi.

D-3 (a) Mayor Hitchcock presented a Certificate of Recognition to Cody Miln, Student President of the Robotics Team, and the participating students of Jim Elliot Christian High School for advancing to the National Robotics Competition in Atlanta, Georgia.

D-3 (b) Following introductory comments by Tony Segale, representing the Wall Dogs, Dave Buccolo with Central California Traction Company presented a \$10,000 donation to the Wall Dogs for the Lodi Station Parking Structure Wall Dog Mural project.

E. CONSENT CALENDAR

In accordance with the report and recommendation of the City Manager, Council, on motion of Council Member Mounce, Beckman second, unanimously approved the following items hereinafter set forth **except those otherwise noted**:

E-1 Claims were approved in the amount of \$6,541,342.33.

E-2 The minutes of March 1, 2006 (Regular Meeting), March 21, 2006 (Shirtsleeve Session), and April 11, 2006 (Shirtsleeve Session) were approved as written.

E-3 Adopted Resolution No. 2006-56 approving the plans and specifications; authorizing advertisement for bids for Municipal Service Center Compressed Natural Gas Fueling Station Expansion, 1331 South Ham Lane; and authorizing the City Manager to execute and amendment to professional services agreement with T. Mitchell Engineers and Associates in the amount of \$14,600.

E-4 Approved the specifications and authorized advertisement for bids for 3,000 tons of asphalt materials for fiscal year 2006-07.

E-5 “Approve specifications and authorize advertisement for bids for Annual Tree Trimming Contract (Power Line Clearing) for Electric Utility Department (\$350,000)” was **removed from the Consent Calendar and discussed and acted upon following approval of the Consent Calendar**.

E-6 “Adopt resolution authorizing the Public Works Street Division to waive the bidding process and award to an existing professional services agreement for tree trimming between city of Brentwood and West Coast Arborists, Inc., for trimming of 510 trees (\$25,000) and authorizing the City Manager to award the contract” was **removed from the Consent Calendar and discussed and acted upon following approval of the Consent Calendar**.

- E-7 Accepted the improvements under "Water Meter Installation Project" contract.
- E-8 Adopted Resolution No. 2006-57 accepting the improvements under "Kettleman Lane (Route 12) Gap Closure Project from Lower Sacramento Road to Ham Lane and from Stockton Street to Cherokee Lane" contract and appropriating additional funds in the amount of \$102,800.
- E-9 Accepted the improvements under "Lodi Avenue Overlay (Lower Sacramento Road to Ham Lane) / Pacific Avenue Extension (Walnut Street to Lodi Avenue) Project" contract.
- E-10 Adopted Resolution No. 2006-58 accepting improvements under "Lower Sacramento Road Widening Project, Kettleman Lane to Harney Lane" contract and appropriating \$5,000 and received notification of Contract Change Orders and property owner reimbursement.
- E-11 Adopted Resolution No. 2006-59 accepting improvements for the Harney Lane Canal Crossing Project and appropriating additional funds in the amount of \$66,520 for applicable reimbursements.
- E-12 Adopted Resolution No. 2006-60 accepting the development improvements at 33 North Cluff Avenue.
- E-13 Adopted Resolution No. 2006-61 approving the improvement deferral agreement for 710 Willow Avenue and authorizing the City Manager and City Clerk to execute the agreement on behalf of the City.
- E-14 Adopted Resolution No. 2006-62 approving a one-year extension of the 2005-06 Annual Curb, Gutter, and Sidewalk Replacement contract with Jeff Case Construction Company for 2006-07 fiscal year with a three percent increase at a cost of \$71,200.
- E-15 Adopted Resolution No. 2006-63 supporting the Watershed Stakeholder Outreach Projects proposed by Central Sierra Resource Conservation & Development, Inc.
- E-16 Adopted Resolution No. 2006-64 amending Traffic Resolution 97-148 by approving one-hour parking (school days only) on the north side of Century Boulevard in front of bus turnout at Tokay High School.
- E-17 Adopted Resolution No. 2006-65 approving Resource Adequacy Program for the City of Lodi.
- E-18 Adopted Resolution No. 2006-66 approving the naming of Salas Park southwest baseball diamond for Michael Moore.
- E-19 "Adopt resolution supporting the preservation of the existing U.S. Department of Housing and Urban Development Community Development Block Grant program" was **removed from the Consent Calendar and discussed and acted upon following approval of the Consent Calendar.**
- E-20 Adopted Resolution No. 2006-67 supporting a Constitutional amendment to ensure that Proposition 42 revenues are used exclusively for state and local transportation projects and that revenues previously used to offset non-transportation purposes are reimbursed.
- E-21 "Authorize Mayor to sign letters of opposition to the U.S. House of Representatives Committee on Energy and Commerce bill, *Communications, Opportunity, Promotion, and Enhancement Act of 2006* (Barton-Rush), and the California State Assembly bill, *AB 2987 (Nunez)*, to prevent the pre-emption of local control of cable television franchises" was **removed from the Consent Calendar and discussed and acted upon following approval of the Consent Calendar.**

- E-22 Set public hearing for May 3, 2006, to consider adopting resolution adjusting Consumer Price Index-based water and wastewater rates.
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ACTION ON ITEMS REMOVED FROM THE CONSENT CALENDAR

- E-5 "Approve specifications and authorize advertisement for bids for Annual Tree Trimming Contract (Power Line Clearing) for Electric Utility Department (\$350,000)"

Mayor Pro Tempore Johnson asked if the mistletoe could be removed from the trees selected under this contract.

Electric Utility Director Morrow replied that he would communicate the request to the supervisor for the tree crew and would make sure the bidders are aware. Mr. Morrow stated that he would report back if he learned there was a fiscal or productivity issue related to the mistletoe removal.

MOTION / VOTE:

The City Council, on motion of Mayor Pro Tempore Johnson, Beckman second, unanimously approved the specifications and authorized advertisement for bids for Annual Tree Trimming Contract (Power Line Clearing) for Electric Utility Department.

- E-6 "Adopt resolution authorizing the Public Works Street Division to waive the bidding process and award to an existing professional services agreement for tree trimming between city of Brentwood and West Coast Arborists, Inc., for trimming of 510 trees (\$25,000) and authorizing the City Manager to award the contract"

Council Member Hansen suggested that Public Works identify 510 trees that have mistletoe and make them a priority for the tree trimming contract.

Public Works Director Prima indicated that he would do so and report back on the status.

MOTION / VOTE:

The City Council, on motion of Council Member Hansen, Johnson second, unanimously adopted Resolution No. 2006-68 authorizing the Public Works Street Division to waive the bidding process and award to an existing professional services agreement for tree trimming between city of Brentwood and West Coast Arborists, Inc., for trimming of 510 trees at an estimated project cost of \$25,000 and authorizing the City Manager to award the contract.

- E-19 "Adopt resolution supporting the preservation of the existing U.S. Department of Housing and Urban Development Community Development Block Grant program"

Council Member Beckman explained that he asked for the item to be pulled from the Consent Calendar so that he could vote in opposition.

MOTION / VOTE:

The City Council, on motion of Mayor Pro Tempore Johnson, Hansen second, adopted Resolution No. 2006-69 supporting the preservation of the existing U.S. Department of Housing and Urban Development Community Development Block Grant program. The motion carried by the following vote:

Ayes: Council Members – Hansen, Johnson, Mounce, and Mayor Hitchcock

Noes: Council Members – Beckman

Absent: Council Members – None

- E-21 "Authorize Mayor to sign letters of opposition to the U.S. House of Representatives Committee on Energy and Commerce bill, *Communications, Opportunity, Promotion, and Enhancement Act of 2006* (Barton-Rush), and the California State Assembly bill, *AB 2987 (Nunez)*, to prevent the pre-emption of local control of cable television franchises"

PUBLIC COMMENTS:

- Kathy Halsey, AT&T External Affairs, stated that this legislation eliminates impediments to investments in next generation broadband network services and promotes video competition. It also encourages investments in next generation broadband network infrastructure, which will help California solidify its position as a world technology leader. AT&T is prepared to invest up to \$1 billion dollars over the next three years in California to update its fiber optic network. It promotes competition in the video service market; ensuring consumers will have more control and choice over their video and entertainment experiences. These pieces of legislation streamline the outdated city by city video franchise process and guarantees that local governments will continue receiving a franchise fee up to 5% of gross revenue earned at the locality. It also provides that local governments can monitor and audit the process. It prohibits discrimination based on income and ensures that local governments continue receiving Public, Education and Government channels. It preserves local government's ability to impose user utility taxes. Ms. Halsey asked Council not to oppose the bills.

Council Member Hansen commented that he has always been a proponent of Lodi getting into the business of fiber optics.

Ms. Halsey responded that it is difficult when government competes with the private sector; however, there are advantages to the consumer when competition occurs.

City Attorney Schwabauer stated that the legislation allows businesses such as AT&T to define its own service area and does not require them to build out as the cable system does. He pointed out that AT&T does not use the public rights of way for the Digital Subscriber Line (DSL) service.

Ms. Halsey countered that the law defines that it cannot "redline." She confirmed that the DSL service runs off the telephone lines.

City Manager King explained that cities have been asked to take this position by the League of California Cities who saw these two pieces of legislation as a threat to the concept of local control. The telephone service, through an exemption from the state legislature, is the only utility that is not subject to local franchise fees or local control.

Mr. Schwabauer added that the legislature does not create an enforcement mechanism (for redlining) because it expressly allows them to define their service area. Unless they are required to build out as the cable company is required to do, there will be no mechanism to prevent them from redlining neighborhoods.

Council Member Beckman pointed out that there is information in the staff report that is not in the letter. He did not wish to authorize a letter that expresses opposition to a specific bill or state legislation.

MOTION / VOTE:

The City Council, on motion of Council Member Beckman, Mounce second, unanimously authorized the Mayor to sign letters of opposition (without the mention of specific legislation) to the U.S. House of Representatives Committee on Energy and Commerce bill, *Communications, Opportunity, Promotion, and Enhancement Act of 2006* (Barton-Rush), and the California State Assembly bill, *AB 2987 (Nunez)*, to prevent the pre-emption of local control of cable television franchises.

F. COMMENTS BY THE PUBLIC ON NON-AGENDA ITEMS

- Ken Owen, representing Christian Community Concerns, thanked Council for its decision to display the National motto in the Carnegie Forum lobby. He invited everyone to attend the May 4 National Day of Prayer.

G. COMMENTS BY CITY COUNCIL MEMBERS ON NON-AGENDA ITEMS

None.

H. COMMENTS BY THE CITY MANAGER ON NON-AGENDA ITEMS

- In reference to the earlier presentation regarding the Police Partners, City Manager King clarified that Lodi does not enforce laws for the purpose of generating revenue; rather, it imposes fines for the purpose of achieving compliance with the law.

I. PUBLIC HEARINGS

- I-1 Notice thereof having been published according to law, an affidavit of which publication is on file in the office of the City Clerk, Mayor Hitchcock called for the public hearing to consider the appeal of the Planning Commission's decision of February 22, 2006, to approve a Use Permit for Vineyard Christian Middle School to place a private 6th, 7th, and 8th grade school on the grounds of Lodi Avenue Baptist Church at 2301 West Lodi Avenue (Applicant, Lodi Avenue Baptist Church; File #U-05-20).

NOTE: Due to a potential conflict of interest related to the location of her home to the vicinity of the proposed project, Mayor Hitchcock abstained from discussion and voting on this matter and vacated her seat at the dais at 8:01 p.m.

MOTION TO LIMIT DEBATE:

The City Council, on motion of Mayor Pro Tempore Johnson, Beckman second, voted to limit the main presentations to 15 minutes and public comments to 3 minutes each. The motion carried by the following vote:

Ayes: Council Members – Beckman, Hansen, Johnson, and Mounce

Noes: Council Members – None

Absent: Council Members – None

Abstain: Council Members – Mayor Hitchcock

Peter Pirnejad, Planning Manager, explained that staff's recommendation to uphold the Planning Commission's decision is based on consistency with the City's zoning ordinance and assessment of public safety. The City's Traffic Engineer reported that from 2003 to March 2006 there has been one reported collision in the area. Daily vehicle traffic volume on Allen Drive is 5,000 vehicle trips per day. The latest traffic count on Allen Drive shows 761 vehicle trips per day, and with the addition of the Vineyard Christian Middle School, it is anticipated to increase by 130 vehicle trips per day, which still results in a level of service "A". A public hearing was held before the Planning Commission on February 8 and continued to February 22, at which a vote took place to approve the use permit based on a revised and improved circulation element. Condition D in the conditions of approval address what staff and the applicant consider to be the best traffic flow pattern. Mr. Pirnejad reviewed the 16 conditions of approval as were outlined in the Planning Commission's Resolution No. P.C. 06-05.

Hearing Opened to the Public

- Bob Peterson felt that Planning Commissioner Cummins had a conflict of interest because he is a pastor of a church and, therefore, should have abstained from voting on the matter. The Planning Commission's vote was 4 to 3, so if Commissioner Cummins

had abstained it would have been a tie vote and the Use Permit would not have been approved. Planning Commissioner Kuehne could be perceived as having a conflict of interest because after the February 8 presentation he congratulated members of the Vineyard School for their work at Woodbridge School and disclosed that his own children attend St. Peters Christian School. One of the issues that could not be mitigated was how parents would come into the neighborhood to get to the school, as they could enter by any of the side streets.

- Paula Peterson displayed a map of the neighborhood that showed those in favor of and those opposed to the Vineyard Middle School project. She collected 130 signatures on a petition of those who were opposed to placing the middle school on the grounds of Lodi Avenue Baptist Church. She felt that more people in the neighborhood should have been made aware of the project, rather than just the minimum requirement of 300 feet surrounding the school site. She cited negative impacts of traffic, noise, and appearance. Residents in the area purchased their homes because it is a quiet neighborhood. Ms. Peterson disputed the results of the traffic report, as she knew of five accidents that occurred during the past two years. She did not believe it was possible to mitigate the noise of a middle school.

In response to the conflict of interest allegations, City Attorney Schwabauer did not believe that either rose to the level of a conflict within the meaning of the Fair Political Practices Act. Neither Planning Commissioner had a personal financial interest in the project. In regard to the matter of a tie vote, Mr. Schwabauer explained that either side could have appealed the decision, or in the case of a tie vote, a non-decision.

- Karen Hale, Principal of Vineyard Christian Middle School, reported that the school opened in 2004. Currently, it operates out of five modular buildings on the site of Woodbridge Middle School; however, its lease ends in June. It has three classrooms; one class for 6th, 7th, and 8th grades not to exceed 28 students in each class and is in session from 8:30 a.m. to 3:10 p.m. Its after school athletic enrichment program is located off site. She assured Council that all rules, regulations, conditions, and expectations set forth by the Planning Commission and the Site Plan and Architectural Review Committee (SPARC) will be adhered to.

In answer to questions posed by Council Member Hansen, Ms. Hale estimated that 10 cars at a time, up to a total of 40, would be at the school. She did not foresee many of the parents using the side streets. Approximately ten of the students walk to school.

SPEAKERS IN FAVOR

- George Liepart stated that Lodi has a rich, healthy, and ongoing tradition of church / school relationships. It is a part of the community that has been in place for years and there have not been any challenges or problems with them. Vineyard Christian Middle School will be using newer modular buildings, which will be painted, refurbished, landscaped, etc. in accordance with SPARC direction.

Council Member Hansen disclosed that he met prior to the meeting with Mr. Liepart to discuss the project.

Council Member Beckman stated that he met with David and Christy Roberts in their home to discuss this matter. He also spoke previously with one of the proponents of the project who asked that the public hearing be held when all five members of the Council were present.

Council Member Mounce spoke prior to the meeting to Ms. Peterson, Ms. Oliver, Ms. Pitchford, and two members of the school, in addition to receiving numerous calls and emails about the matter.

Mayor Pro Tempore Johnson disclosed that he spoke with Paul Teramino who was opposed to the project; Ron Httle who was in favor; and Michael Hakeem, attorney representing Vineyard Christian Middle School.

- Alyssa Oliver distributed maps and photos (filed) and noted that neither of the school driveways align with the side streets. There is only one way in and one way out of the parking lot, and curb drop off or pick up is not allowed. Parents have received written instructions. There will be an adult monitor present.
- Kevin Huber, parent of a student at Vineyard School, spoke in support of the school curriculum and the proposed site. He stated that the project is a compatible use in the neighborhood and could be considered a model of how to utilize existing facilities, thus taking up less vacant land.
- Mike Hakeem, attorney representing Vineyard School, noted that there are many examples of schools in Lodi that are adjacent to residential areas, many with larger school populations, and those existing facilities have not had conflicts. There will be no offsite lunch. The traffic pattern has been reconfigured by the Planning Commission with a right-turn, right-out only. The scheduling and timing of the school has been geared not to conflict with St. Peters Lutheran School. In addition, Vineyard School has coordinated its schedule with church activities. There will be a school contact person available to the neighbors at all times to deal with issues that may surface. The school will be required to construct a five-foot fence on Allen Drive. He pointed out that the conditional use permit allows the City to bring the matter back for conditional review, revisitation of mitigation, or for revocation if necessary.
- Stacy Moffatt, parent of a Vineyard School student, commented that change is always difficult. She noted that the school has an elevated standard of excellence and asked Council to uphold the Planning Commission decision.
- Pat Patrick, parent of a Vineyard School student, stated that school leadership personnel are caring of the children and parents' concerns, respectful, professional, and focused on quality. He stated that the parking lot is large enough to handle all the cars that would be there at one time during drop off or pick up. He felt that the school creates great citizens and asked the Council to uphold the Planning Commission's decision.
- Christi Hilscher pointed out that neighborhoods sometimes change and a church brings activity to areas.
- Olivia Oliver mentioned that she attended Vineyard School last year and felt that it was an excellent opportunity that prepared her well for high school. Students at the school are held to very high standards.
- Linda Engrav-Clarke believed that the school would be a positive impact on the neighborhood. Ms. Clarke mentioned that she originally signed the petition in opposition to the school; however, after learning more about it she changed her mind. She stated that the school is acting in good faith to solicit neighborhood input regarding aesthetic qualities residents would like to see in the school. She disputed comments made about accidents in the area, as she felt if they occurred, the City's traffic engineers would have known about it.
- Tammi Enos, Secretary for the Vineyard School, asked when people quit loving the noise of children.

- Marsha Fitzgerald, parent of a student at Vineyard School, recalled that she had opposed the construction of a continuation school near her home. Neighbors picketed the school because they feared the worst. Ms. Fitzgerald reported that no problems have occurred in the year and a half that the school has been in operation. Residents' fears had been unfounded. She mentioned that students at Vineyard School learn the importance of serving the community.

RECESS

At 9:34 p.m., Mayor Pro Tempore Johnson called for a recess, and the City Council meeting reconvened at 9:41 p.m.

I. PUBLIC HEARINGS (Continued)

I-1 SPEAKERS IN OPPOSITION

(Cont'd.)

- Linda Reichert noted that Vineyard School is not a public/free school, yet it is inserting itself into an already existing mature neighborhood over the opposition of 85% of the residents surrounding it. The two Planning Commissioners who voted against the matter expressed concern regarding the parking spaces. If other uses occur during the day while the school is in session there will not be adequate parking.
- Rico Bianchi stated that there are five schools within walking distance of his home and he complained of traffic congestion and speeding.
- Treacy Dorth stated that the area is already noisy and the Vineyard School will worsen it and create traffic problems.
- David Johnson expressed safety concerns and believed that traffic will increase as a result of the Vineyard School.
- Dean Walker stated that the school will consume 25 parking spaces and there will not be enough remaining for the church. The church is required to have one parking space for every four of its 300 seats. He suggested that if Council is going to uphold the Planning Commission decision that it do so on the condition that the neighborhood approve the architectural review process through SPARC.
- Delores Hansen mentioned that she sent a letter to Council about this matter. She felt that the school would not have adequate space and was opposed to portable buildings and noise impacts.
- Chris Johnson stated that she chose to purchase a home in an established, quiet neighborhood that would not change. She voiced concern about increased traffic and noise.

REBUTTAL

- Paula Peterson stated that no one had taken into consideration the concentration of traffic in the area due to St. Peters, Reese, and Lodi High Schools.
- Mike Hakeem pointed out that City staff has determined that the average daily traffic could equal or exceed 2,000 cars a day and not violate the planning and safety principles established under the City's program element. With 761 cars currently and the 130 added, the street capacity will only be at 50%. SPARC will review the modular buildings, and the community will have an opportunity to participate and provide input to determine their appearance. Regarding noise, he mentioned that there will be only one recess and one lunch period Monday through Friday.

Public Portion of Hearing Closed

Community Development Director Hatch reported that the modular buildings would take up 14 of the existing 61 parking spaces. The church has 80 to 100 parishioners, though its capacity is 300. The Planning Commission made a finding that 47 parking spaces were adequate for both the school and church.

Council Member Beckman stated that in this situation there is a private property owner who wants to lease some of its land for a use allowed under the City's zoning laws. Mr. Beckman explained that he tends to approve an allowable use unless there is a demonstrated harm that is going to be inflicted upon someone else, and that is not the case in this situation. He saw this matter as private property rights being exercised properly.

MOTION:

Council Member Beckman made a motion, Hansen second, to adopt Resolution No. 2006-70 upholding the Planning Commission's decision and approving the request of Lodi Avenue Baptist Church for a Use Permit to allow Vineyard Christian Middle School to locate on church property at 2301 West Lodi Avenue, subject to the conditions as recommended by the planning commission.

DISCUSSION:

Council Member Mounce expressed concern regarding parking. She preferred to view finished plans and SPARC review prior to making a decision. She noted that personal property rights also include all the people who own property in the neighborhood surrounding the project.

Council Member Hansen had confidence in the conditional use process and noted that it could be revoked if promises and conditions were not adhered to.

VOTE:

The above motion carried by the following vote:

Ayes: Council Members – Beckman, Hansen, and Johnson

Noes: Council Members – Mounce

Absent: Council Members – None

Abstain: Council Members – Mayor Hitchcock

RECESS

At 10:26 p.m., Mayor Pro Tempore Johnson called for a recess, and the City Council meeting reconvened at 10:32 p.m. Mayor Hitchcock returned to the dais.

J. COMMUNICATIONS

J-1 Claims filed against the City of Lodi – None

J-2 The following postings/appointments were made:

- a) The City Council, on motion of Council Member Hansen, Mounce second, unanimously directed the City Clerk to post for the following expiring terms:

Greater Lodi Area Youth Commission

(Adult Advisors)

Dale Jones Term to expire May 31, 2006

Elizabeth Mazzeo Term to expire May 31, 2006

Brad VanderHamm Term to expire May 31, 2006

Library Board of Trustees

Tariq Din	Term to expire June 30, 2006
Christine Lavond	Term to expire June 30, 2006

Lodi Arts Commission

Ben Burgess	Term to expire July 1, 2006
Nancy Carey	Term to expire July 1, 2006
Patrick Stockar	Term to expire July 1, 2006

Lodi Planning Commission

Dennis Haugan	Term to expire June 30, 2006
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San Joaquin County Commission on Aging

Terri Whitmire	Term to expire June 30, 2006
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J-3 Miscellaneous

- a) City Clerk Blackston presented the cumulative Monthly Protocol Account Report through March 31, 2006.

K. REGULAR CALENDAR

- K-1 "Adopt resolution implementing surface water treatment program utilizing Woodbridge Irrigation District contractual allotment and authorizing solicitation of water treatment plant proposals"

Public Works Director Prima reported that the basin Lodi draws its water from is in overdraft. The City and surrounding areas are using far more water than nature is replenishing. Lodi entered a contract with Woodbridge Irrigation District (WID) to purchase 6,000 acre feet of surface water from the Mokelumne River. The water is available from March through October for a period of 40 years at a cost of \$1.2 million per year. For the first three years of the agreement, the City can bank water on paper that it does not use and take it in a later year as it is available. Currently, staff is negotiating with WID to extend the banking option for an additional four years during the time it works on implementing a project. Staff had originally thought that groundwater recharge would be cost effective and provide a direct benefit; however, regulatory requirements have increased and it now appears the cost would be as much, if not greater, than a surface water plant. The possibility of doing surface recharge still exists, but it takes a lot of land and there remains the question as to how much it would benefit Lodi. Short-term sales of the water were considered; however, it has been a wet year so there is little interest. Staff considered using the surface supply for irrigation of parks and school grounds, but it would require building a huge system. In light of other options, staff returned to the idea of treating and drinking the WID water as the best scenario. As a municipal water pumper, the City has a lower standing in terms of water rights than overlying property owners. The Water Code now states that groundwater recharge is not considered a beneficial use of water. Mr. Prima stated that if groundwater recharge were pursued, the west side of the City would be the optimal location for the basin. North of the City, the water has manganese problems and salinity is high in other areas. Near Flag City at Interstate 5, wells have nitrate that exceeds safe drinking water limits. Stockton faces a problem along Interstate 5 where its wells have issues with salinity and high chloride. The Micke Grove area has an issue with DBCP and they have had to install filters on their wells.

Mr. Prima reported that the overdraft of the basin is 150,000 to 200,000 acre feet per year. Staff's conclusion is that the best use of the WID water would be to treat and drink it. If Council approves the concept, it would take four years before a surface water treatment plant could be in operation. Continued reliance on groundwater as 100% of the City's water supply is not sustainable.

In reply to Council Member Hansen, Mr. Prima confirmed that the majority of the cost of a surface water treatment plant could be passed on to new development. Staff recommends an ultra-filtration plant using membranes that would not require chlorination throughout the entire process.

Mayor Pro Tempore Johnson expressed interest in a joint venture with Stockton, noting that it intends to take 33,000 acre feet of water from the Delta on a periodic basis. He noted that the staff report estimates the cost of a water treatment plant would create the need for a 15% increase in water rates, though the cost could eventually be passed on to new development. Mr. Johnson stated if that occurred, it would be important to develop a way to reimburse existing rate payers when development begins to pay for the plant.

Council Member Beckman felt there was no reason to buy land when the City would only use it for 40 years. The land for groundwater recharge can be leased. A treatment plant would sit dormant for four months out of the year when WID water is not available. Mr. Beckman stated that he strongly supported the groundwater recharge option.

Council Member Mounce questioned where the treatment plant would be located, to which Mr. Prima replied that likely locations are west of the WID canal, the western 13 acres at Lodi Lake, or the General Mills property that is vacant.

Mayor Hitchcock expressed her opinion that the area has been overbuilt and Lodi does not have the water supply to handle large development projects. The proposal only replaces 6,000 acre feet of water into an overdraft of 200,000 acre feet. She pointed out that the staff report shows \$300,000 an acre to purchase land, yet developers are charged \$200,000 an acre. She reported that land recently sold for \$30,000 an acre between Eight Mile Road and Harney Lane. She agreed with Council Member Beckman that land should be leased for groundwater recharge. Since staff began giving presentations to Council on this topic, the cost estimate for groundwater recharge increased 62% and the cost of a surface water treatment plant decreased 19%. She expressed concern regarding chlorinating the City's water system.

Mr. Prima replied that the last time staff did an update to adjust land costs was more than two years ago and at that time it was \$200,000 an acre. Staff now estimates it would be the equivalent of \$300,000 an acre to utilize a site for groundwater recharge.

Ed Steffani, General Manager of the North San Joaquin Water Conservation District, pointed out that even after the proposed Stockton and Lodi treatment plants were in operation, there would still be a 170,000 acre foot overdraft. The two plants would cost \$220 million and yet little would be done to solve the problem. Most of the overdraft will take place in the eastern part of the county where they cannot afford to correct the situation. He recommended that the cities work together, combine resources, pursue matching bonds, and do a major groundwater recharge project. He asked Council to delay action for six weeks to allow for the completion of tests at the Micke Grove site. He stated that four to six wells could be placed on the south side of Micke Grove and Lodi could capture all the water it put into the ground for much less cost than a treatment plant.

Council Member Hansen asked whether storm water could be captured and used for recharge.

Mr. Prima replied that most of the storm water goes into the Woodbridge canal. Staff has discussed setting up a recharge project adjacent to the canal.

PUBLIC COMMENTS:

- Dennis Alexander described his vineyard operation and results of drip irrigation and summer water evaporation from various farming techniques. He warned against groundwater recharge at the Micke Grove property because of the chemicals that have

been applied over many years to the vineyards and farmland. Once the contaminants reach the aquifer the well water would be unusable. He recommended that a water treatment facility be constructed using private money by selling stock or shares.

Council Member Hansen asked Mr. Prima to look into the possibility of using private money to fund the water treatment plant.

- Ann Cerney suggested that the two large proposed developments are driving this discussion. She noted that \$25 million is the estimate for the treatment plant, the WID water will cost \$48 million over 40 years, and the groundwater contamination cleanup is estimated to cost \$45 million. To date, the only clear step taken to address the financial consequences of these expenses is to increase the rates to ratepayers. She supported the groundwater recharge option and encouraged Council to wait six weeks as requested by Mr. Steffani.
- Dave Philips voiced support for groundwater recharge and stated that he did not want Lodi's water chlorinated.

MOTION #1:

Council Member Beckman made a motion, Hitchcock second, to NOT pursue a water treatment plant and to explore other options.

DISCUSSION:

Mayor Pro Tempore Johnson and Council Member Mounce indicated support for the water treatment plant option; however, both were willing to wait six weeks for the test results at the Micke Grove property.

Council Member Hansen stated that he wanted Lodi to receive 100% of the benefit from the WID water.

VOTE:

The above motion **failed** by the following vote:

Ayes: Council Members – Beckman and Mayor Hitchcock

Noes: Council Members – Hansen, Johnson, and Mounce

Absent: Council Members – None

MOTION #2 / VOTE:

The City Council, on motion of Council Member Hansen, Mounce second, voted to delay action for six weeks to allow for the Northern San Joaquin Water Conservation District to complete its groundwater recharge studies and directed staff to evaluate and report back to Council with cost estimates for groundwater recharge versus a water treatment plant, cost implications of buying versus leasing property, and an analysis of water chemistry issues at the proposed Micke Grove site for the groundwater recharge project. The motion carried by the following vote:

Ayes: Council Members – Hansen, Johnson, Mounce, and Mayor Hitchcock

Noes: Council Members – Beckman

Absent: Council Members – None

VOTE TO CONTINUE WITH THE REMAINDER OF THE MEETING

The City Council, on motion of Mayor Pro Tempore Johnson, Beckman second, voted to continue with items K-2, L-1, L-2, M-1, M-2, and M-3 following the 11:00 p.m. hour. The motion carried by the following vote:

Ayes: Council Members – Beckman, Hansen, Johnson, and Mayor Hitchcock

Noes: Council Members – Mounce

Absent: Council Members – None

K. REGULAR CALENDAR (Continued)

- K-2 "Consider extending the active date to May 12, 2006, for an application submitted by San Joaquin Valley Land Company for entitlements related to development of a 220-acre site located immediately south of Harney Lane between State Route 99 and the Union Pacific Railroad, pending a decision by Blue Shield of California to remain and expand in Lodi"

City Manager King recalled that on January 18 Council authorized that an agreement be entered into between Blue Shield and San Joaquin Valley Land Company to provide for reimbursement of costs related to engineering and planning for the development of 220 acres, of which 20 acres was intended to accommodate a new Blue Shield office, 41 acres for retail shopping, and 134 acres for residential and supporting uses. The agreement contemplated that Blue Shield would make a decision by February 28 whether to pursue purchase of the office site. The applicant and Blue Shield have requested relief from the decision date deadline. Blue Shield has indicated that it now expects to make a decision no later than May 12.

MOTION:

Council Member Beckman made a motion, Johnson second, to extend the active date to May 12, 2006, for an application submitted by San Joaquin Valley Land Company for entitlements related to development of a 220-acre site located immediately south of Harney Lane between State Route 99 and the Union Pacific Railroad, pending a decision by Blue Shield of California to remain and expand in Lodi.

DISCUSSION:

Mayor Hitchcock preferred that it go through the general plan process.

Council Member Mounce recalled that she originally voted against the proposal, but has changed her opinion based on the fact that Blue Shield is an important company that the City could not afford to lose.

Council Member Hansen disclosed that he spoke with Dale Gillespie about this matter prior to the meeting.

VOTE:

The above motion carried by the following vote:

Ayes: Council Members – Beckman, Hansen, Johnson, and Mounce

Noes: Council Members – Mayor Hitchcock

Absent: Council Members – None

- K-3 "Adopt resolution establishing Public Works Department engineering fees for various development services; amending Community Improvement fees for administrative procedures; and amending Planning fees to add pre-development review and hourly charges" was ***pulled from the agenda pursuant to the above vote.***
- K-4 "Adopt resolution authorizing the City Manager to execute professional services agreement with Fehr & Peers Transportation Consultants, of Walnut Creek, for preparation of Travel Demand Forecasting Model for General Plan Update and appropriating funds (\$160,000)" was ***pulled from the agenda pursuant to the above vote.***
- K-5 "Adopt resolution authorizing the City Manager to execute two agreements to prepare Environmental Impact Report amendments for the Lodi Shopping Center: one with Pacific Municipal Consultants for \$72,000 and one with Bay Area Economics for \$46,075" was ***pulled from the agenda pursuant to the above vote.***

- K-6 "Authorization to fill a previously 'frozen' Junior/Assistant/Associate Planner position in the Community Development Department" was ***pulled from the agenda pursuant to the above vote.***
- K-7 "Introduce ordinance imposing a Transactions and Use Tax to be administered by the State Board of Equalization and adding Chapter 3.09 to the Lodi Municipal Code, which shall be operative only IF two-thirds of the electors voting on the Fire & Facilities Sales Tax Measure (citizens initiative) vote to approve the imposition of the tax at the November 7, 2006, General Municipal Election" was ***pulled from the agenda pursuant to the above vote.***
- K-8 "Authorize the City Manager to execute fee adjustment agreement for Vintage Oaks Subdivision" was ***pulled from the agenda pursuant to the above vote.***

L. ADJOURN TO SPECIAL JOINT MEETING OF THE LODI CITY COUNCIL AND REDEVELOPMENT AGENCY

At 12:31 a.m., Thursday, April 20, 2006, Mayor Hitchcock adjourned the regular meeting of the City Council to a Special Joint meeting with the Redevelopment Agency NOTE: Refer to the Special Joint meeting with the Redevelopment Agency minutes of April 19, 2006).

The Regular City Council meeting reconvened at 12:43 a.m., Thursday, April 20, 2006.

M. ORDINANCES

- M-1 Following reading of the title of Ordinance No. 1772 entitled, "An Ordinance of the Lodi City Council Amending Chapter 13.20, 'Electrical Service,' by Amending Sections 13.20.175 Schedule MCA, 13.20.190 Schedule EA, 13.20.200 Schedule ED, 13.20.210 Schedule EM, 13.20.220 Schedule MR, 13.20.230 Schedule EL, 13.20.240 Schedule G1, 13.20.250 Schedule G2, 13.20.260 Schedule G3, 13.20.270 Schedule G4, 13.20.280 Schedule G5, and 13.20.310 Schedule I-1 Relating to Rate Schedules; Adding Section 13.20.235 Schedule ES (City Facilities Service); and Repealing Sections 13.20.202, 13.20.203, and 13.20.204," having been introduced at a regular meeting of the Lodi City Council held February 15, 2006, the City Council, on motion of Council Member Hansen, Johnson second, waived reading of the ordinance in full and adopted and ordered it to print by the following vote:
- Ayes: Council Members – Hansen, Johnson, and Mayor Hitchcock
Noes: Council Members – Beckman and Mounce
Absent: Council Members – None
Abstain: Council Members – None
- M-2 Following reading of the title of Ordinance No. 1777 entitled, "An Ordinance of the City Council of the City of Lodi Amending Lodi Municipal Code Title 1 – General Provisions – by Creating and Adding Chapter 1.10, 'Administrative Enforcement Provisions'," having been introduced at a regular meeting of the Lodi City Council held April 5, 2006, the City Council, on motion of Council Member Beckman, Johnson second, waived reading of the ordinance in full and adopted and ordered it to print by the following vote:
- Ayes: Council Members – Beckman, Hansen, Johnson, Mounce, and Mayor Hitchcock
Noes: Council Members – None
Absent: Council Members – None
Abstain: Council Members – None
- M-3 Following reading of the title of Ordinance No. 1778 entitled, "An Ordinance of the City Council of the City of Lodi Amending Lodi Municipal Code by Repealing Chapter 2.34, 'Administrative Procedures for Administrative Proceedings,' in Its Entirety; Repealing and Reenacting Section 3.01.460, Business Tax Certification – 'Enforcement'; Repealing and

Reenacting Section 10.56.020 (J), (K), and (L)-(1), Removal of Vehicles – 'Removal from Private Property'; Amending Building Code Section 15.04.060, 'Violation-Misdemeanor,' by Adding Section (C); Repealing and Reenacting Chapter 15.24, 'Housing Code,' Sections 15.24.30 – 15.24.70 and Sections 15.24.090 – 15.24.100; Repealing and Reenacting Sections 15.28.030, 15.28.070, 15.28.080, 15.28.090, 15.28.100, 15.28.120, and 15.28.140 Relating to the Abatement of Dangerous Buildings Code; Repealing Sections 15.30.040 – 15.30.220 and Reenacting Sections 15.30.040 – 15.30.060 Relating to Property Maintenance and the Designation of Certain Kinds of Nuisances; and Amending Chapter 15.31, 'Weed and Refuse Abatement,' by Adding Sections 15.31.150 – 15.31.170," having been introduced at a regular meeting of the Lodi City Council held April 5, 2006, the City Council, on motion of Council Member Beckman, Johnson second, waived reading of the ordinance in full and adopted and ordered it to print by the following vote:

Ayes: Council Members – Beckman, Hansen, Johnson, Mounce, and
Mayor Hitchcock

Noes: Council Members – None

Absent: Council Members – None

Abstain: Council Members – None

M. ADJOURNMENT

There being no further business to come before the City Council, the meeting was adjourned at 12:48 a.m., Thursday, April 20, 2006.

ATTEST:

Susan J. Blackston
City Clerk